IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 18628 of 2006
Date of decision: 8.2.2007

Budha Dal Public School ...Petitioner

Versus

Commissioner, Patiala Division, Patiala and others ...Respondents.

CORAM:- HON'BLE MR. JUSTICE K.S.GAREWAL
HON'BLE MR. JUSTICE AJAI LAMBA

Present: Mr. Jaswinder Singh, Advocate,
for the petitioner.

Mr. RS Sharma, Advocate, for
the respondents.

K.S.GAREWAL, J.

Budha Dal Public School (hereinafter referred as **the School**) has filed this petition for quashing of order dated May 3, 2006 (Annexure P/6) passed by Divisional Commissioner, Patiala.

The School had claimed exemption from house tax, as it was set up for promoting education without any motive or monetary gain or commercial angle. The School claims to be covered under the policy circular dated February 14, 2000 (Annexure P/1). The circular was later clarified on August 14, 2000 (Annexure P/2) and extended the benefit of exemption, while providing a procedure for scrutiny of accounts and

consequent exemption.

On August 19, 2005 the School received a notice under Section 137 of the Punjab Municipal Corporation Act, 1976 (hereinafter referred to as **the Act**) from the Municipal Corporation, Patiala, demanding Rs. 38.28 lacs and interest as house tax. The School filed an appeal under Section 146 of the Act raising several pleas. On February 22, 2006, the School's counsel was informed by the Corporation's counsel that arguments had been addressed by him and the matter was fixed for orders on March 2, 2006, the School could submit written arguments on or before February 27, 2006. However, when the School's counsel went to the Court of the Commissioner he came to know that the case had actually been dismissed in default on February 22, 2006. This led to the filing of an application on February 28, 2006 for restoration of the appeal.

The Commissioner on May 3, 2006 dismissed the application for restoration which drove the School to file the present petition. The Commissioner did not accept the plea that the School's counsel had been informed by the Corporation's counsel that the appeal was fixed for orders on March 2, 2006, as this was against the zimni order dated February 22, 2006. Since it was felt that it was duty of the School to pursue the case, the plea that it was Corporation counsel who had given wrong information was not accepted.

We feel that the Commissioner had treated the matter far too strictly. After all the case involved challenge to payment of house ax to the tune of Rs. 38.28 lacs. The School was claiming exemption on the basis of certain government circulars. Therefore, the School was entitled to a fair hearing which somehow was denied as the Commissioner took a strict view

of the matter.

For the afore-stated reasons, order dated May 3, 2006 (Annexure P/6) is hereby set aside. The order of dismissal of the petitioner's appeal under Section 146 of the Punjab Municipal Corporation Act dated February 22, 2006 is also set aside. The appeal is restored to its original number. The Commissioner is requested to decide the matter within a period of one month from the date of receipt of this order. During the pendency of the appeal recovery of house tax of Rs. 38.28 lacs (approximately) shall remain stayed.

Parties shall appear before the Commissioner on March 3, 2006.

(K.S. GAREWAL)
JUDGE

8.2.2007 **(AJAI LAMBA)**
prem **JUDGE**